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Chairman: Mr. ESCOVAR-SALOM (Venezuela)

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ORGANIZATION OF WORK

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The meeting was called to order at 10.15 a.m.

AGENDA ITEM 149: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (A/51/26, A/51/115 and A/51/126; A/C.6/51/L.14)

1. Mr. AGATHOCLEOUS (Cyprus), Chairman of the Committee on Relations with the Host Country, introducing the report of the Committee (A/51/26), said that the Committee had continued to deal with a wide range of matters of significance for the United Nations diplomatic community and the host country. The descriptive and organizational parts of the report (chaps. I and II) had been made shorter than in previous years, in response to General Assembly resolution 50/206 C. Paragraph 3 of the report set out the recommendations adopted by the Committee in that connection. Chapter III described the topics dealt with by the Committee, and chapter IV contained its recommendations and conclusions, on the issues raised.

2. Mr. LAVROV (Russian Federation) said that over the 25 years of its existence the Committee on Relations with the Host Country had successfully addressed problems of the daily activities of permanent missions to the United Nations. One example of that success was the Committee's expeditious handling of the question of the indebtedness of a number of missions.

3. Nevertheless, many of the problems remained virtually unchanged from year to year. For example, there was the issue of the remaining restrictions on the movement in the territory of the United States of members of the missions of a number of countries and of their citizens working for the Secretariat. Such discriminatory measures were at variance with the basic international legal instruments, but the constant response of the host country was that they were in its national security interest. Businessmen or tourists apparently posed no threat to the security of the United States, but staff members of a mission of a certain country and members of their families were potential spies or terrorists. The United States viewed such restrictions as sanctions, imposed for example against a State suspected of a lack of efficiency in combating terrorism, but the absurdity of the situation needed no proof. Although the Permanent Mission of the United States had repeatedly informed the relevant authorities of the host country about the problem, it remained unsolved. Some people apparently felt nostalgia for the times of the cold war.

4. The Russian Federation would welcome greater cooperation between the federal agencies of the United States and local authorities in the proper discharge by the host country of its international obligations. The $3.3 billion received annually by the City of New York as a result of the presence of the diplomatic corps and the 15,000 jobs created thanks to the United Nations must surely offer an incentive for the adoption of mutually acceptable decisions.

5. The need to solve the many long-standing problems was urgent. However, instead of settling the diplomatic parking issue, the host country recommended that diplomats use public transport. That would no doubt be advantageous for the public transport corporations and authorities of New York City but would hardly make diplomats' lives easier. It was to be hoped that the Committee on

Relations with the Host Country, supported by all States, including the host country, would overcome the difficulties and create the environment of mutual trust necessary to the achievement of the common goals.

6. Mr. BIGGAR (Ireland), speaking on behalf of the European Union, the associate countries of Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Romania, Slovakia and Slovenia, and, in addition, Norway, said that the Committee on Relations with the Host Country had been established to answer a need which still existed: to provide a forum for solving the problems which arose between the United Nations, its Member States and the host country. The Committee's record in that respect clearly justified its existence.

7. Some improvements had been made in the past year in the procedures for clearance of diplomats at Kennedy International Airport, but the provision of a special line for diplomats was not always effective. Speedier efforts to make the procedures fully satisfactory would be appreciated.

8. The intricate procedures involved in the question of tax exemption had led to delays in the issue of tax exemption cards. Furthermore, the production of a tax exemption card was frequently met with incomprehension by personnel in the public and private sectors in the host country. It was to be hoped that attention would be given to that problem, with a view to the proper implementation of national and international law.

9. The indebtedness of some diplomatic missions and members of their staff was a difficult problem to solve. The establishment by the Committee of a Working Group on Indebtedness was welcome. A sustained effort must be made to solve the problem for the benefit of all concerned.

10. Turning to the application of traffic laws, he re-emphasized the importance which the European Union attached to articles IV and V of the 1947 Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and to articles 29 to 31 of the 1961 Vienna Convention on Diplomatic Relations, concerning immunity from criminal, civil and administrative jurisdiction in the receiving State. The rate of progress achieved in that area was disappointing. Illegally parked diplomatic cars still received parking tickets, sometimes even when parked in lots especially reserved for them. The European Union recognized the obligations arising from article 41 of the Vienna Convention for persons enjoying immunity to respect the laws of the host country, but it rejected the suggestion that diplomats should accept the jurisdiction of the national courts in order to claim that a traffic ticket had been improperly served. It would welcome an assurance that the host country would take the necessary measures to resolve such problems.

11. The European Union supported all the recommendations and conclusions contained in the Committee's report, which addressed the matters specifically referred to in the present statement.

12. Ms. CUETO MILIÁN (Cuba) said that her delegation once again stressed the positive way in which several delegations members of the Committee on Relations with the Host Country had responded to requests from Cuba to participate in that

Committee's work as an observer and for their support of Cuba's position. The Committee's report contained many mentions of incidents considered at the request of the Permanent Mission of Cuba.

13. During the past year members of the Cuban Mission and its staff had been subjected to attacks not only against the security of the Mission's premises, but also against the dignity and physical and moral integrity of its staff. The Cuban Mission had repeatedly written to the Committee and to the Permanent Mission of the United States calling for action to guarantee observance of the diplomatic privileges and immunities of the Cuban mission and its staff.

14. The premises of the Permanent Mission of Cuba had been violated by representatives of terrorist organizations with the knowledge and in the presence of the most senior official of the City of New York. The host country continued to impose discriminatory restrictions and controls on the movement of Cuban diplomatic personnel. Recent months had seen several violent incidents involving Cuban diplomats: in one such incident a diplomat had been brutally beaten and suffered serious injury. At United States airports and airports of other countries regarded as points of entry into the United States, the host country had caused delays to Cuban diplomats in violation of universally recognized diplomatic privileges and immunities. Although all those matters had been brought to the attention of the Committee on Relations with the Host Country, it had been unable to take the action necessary to ensure that the United States fulfilled its obligations as the Headquarters country of a multilateral organization. That was because the silent threat of the veto hung over the Committee, compromising its freedom of expression and action.

15. The Committee's report and the draft resolution on the item (A/C.6/51/L.14) were very far from being a commendable result and did not constitute a guarantee of the safety of permanent missions to the United Nations and their staff. However, they did reflect the wish of the majority of the Committee's members, despite the powerful unilateral pressures and the Committee's closed membership, to preserve the Committee's identity under the Charter of the United Nations and to promote mutual respect between States Members as well as to ensure that the host country fulfilled its obligations.

16. Cuba hoped that the Sixth Committee and the General Assembly would stand up with the necessary firmness for the interests of Member States not represented in the Committee on Relations with the Host Country. Only a realistic approach by the overwhelming majority of Members of the Organization would ensure that that Committee permitted respect for international law, the sovereignty of all Members of the Organization, and the elementary rules of coexistence among States. The Committee must not function as a select club which endorsed the rule of force in the United Nations.

17. Mr. MOHAMED (Sudan), referring to the letter dated 12 April 1996 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan addressed to the Secretary-General (A/51/115), said that his delegation regretted that any country should have felt the need to accuse members of the Permanent Mission of the Sudan of planning to blow up the United Nations building in New York. It was even more regrettable that the accusation had been widely publicized, together with the allegation that the Sudan committed acts of terrorism and

sheltered terrorists, especially at a time when the population of the occupied Palestinian territories was still persecuted and denied its fundamental human rights. It was in fact inconceivable that any diplomatic representative of the Sudan, the cradle of world civilization, should want to blow up the building of an organization which represented mankind's hopes for peace and development. There was absolutely nothing to be gained by killing innocent people.

18. Two diplomats from the Sudanese Mission had been unjustly accused of being involved in a plot to assassinate the President of Egypt. That accusation had been made by a country trying to create discord between the Sudan and Egypt, and was part of a pattern of false accusations aimed at reinforcing the erroneous view that the Sudan was a State that sponsored terrorism. As a result of those accusations, the Security Council had unjustly imposed sanctions on the Sudan, at the risk of creating another situation like those in Somalia or Rwanda. His Government had done everything in its power, though without success, to find the 11 Egyptians said to have crossed over into its territory, and sought to work together with other nations in a spirit of religious and cultural tolerance to eradicate terrorism everywhere in the world.

19. Ms. WILLSON (United States of America) said that her Government took its obligations as host country very seriously, and looked forward to hosting a reformed United Nations in the next century. The Committee on Relations with the Host Country was not a select club, as had been suggested, but a forum for free and open discussion which gave her Government the opportunity to evaluate the legitimate needs and problems of the representatives of Member States.

20. The efforts of the Committee and Secretariat to reduce diplomatic indebtedness had been rewarded with a 50 per cent fall in the previous year in the level of indebtedness, to around $4 million. It was encouraging that many countries were confronting the issue squarely, and if indebtedness continued to fall, missions and representatives would find it easier to rent premises and obtain credit.

21. In response to the issues raised by the representative of Ireland, she pointed out that diplomatic travel was still unrestricted, but some controls were needed, particularly in airports, to protect national security; her Government would continue to review those arrangements in the light of changing circumstances.

22. She reiterated her Government's firm commitment to protect the Permanent Mission and representatives of Cuba and to investigate and prosecute any violations of Cuban representatives' rights, as long as the Mission made all the relevant information available. However, guarantees of protection in a country such as the United States that was based on the rule of law had to be balanced against the need to ensure that the rights of free speech and assembly were observed.

23. For a full explanation of her Government's position on the expulsion of the Sudanese diplomat, she referred delegations to document A/51/126.

24. Ms. RONEN (Israel) said it was incomprehensible that a State that actively engaged in terrorism should seek to exploit the current debate to make

extraneous accusations about other States. Such comments should not be allowed to prejudice the ongoing Israeli-Palestinian negotiations.

Draft resolution A/C.6/51/L.14

25. Mr. MOUSHOUTAS (Cyprus), introducing draft resolution A/C.6/51/L.14 concerning the report of the Committee on Relations with the Host Country, on behalf of its sponsors, said that Bulgaria had joined the sponsors. The draft was mainly based on the recommendations set out in the Committee's report (A/51/26), and he hoped that it could be adopted without a vote.

AGENDA ITEM 148: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-NINTH SESSION (continued)

Draft resolutions A/C.6/51/L.7 and L.8

26. Ms. PROID (Austria), introducing draft resolution A/C.6/51/L.7 concerning the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session, on behalf of its sponsors, said that Malaysia and Nepal had joined the sponsors.

27. She proposed the following two oral amendments: in paragraph 12, the words "within existing resources" should be deleted; and in paragraph 13, the phrase "that adequate resources are allocated for" should also be deleted. As there appeared to be no objections to those amendments, she hoped that the draft could be adopted without a vote.

28. Introducing draft resolution A/C.6/51/L.8, concerning the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law, on behalf of its sponsors, she said that Malaysia and Japan had joined the sponsors. The draft featured the Model Law in an annex, and would provide a firm legal basis for the increasing volume of commerce carried out electronically. It enjoyed general support, and she therefore hoped it too could be adopted without a vote.

29. Mr. HAYES (Ireland), speaking on behalf of the European Union, asked whether draft resolutions A/C.6/51/L.7, as orally amended, and A/C.6/51/L.8 would have financial implications. If the answer was in the negative, could the European Union assume, in the absence of a statement of programme budget implications in respect of further draft resolutions, that additional financing was not required.

30. Mr. LEE (Secretary of the Committee) confirmed that existing resources would be sufficient to cover the requests referred to under paragraphs 12 and 13 of draft resolution A/C.6/51/L.7 and under draft resolution A/C.6/51/L.8; and that, in the absence of a written statement of programme budget implications, it could be assumed that the draft resolutions to be adopted did not have financial implications.

31. The question of accommodating additional meetings in the 1997 calendar of conferences was under review and subject to a decision of the General Assembly at its current session. The meetings identified concerned areas where available

conference services had not yet been fully utilized; it was therefore assumed that those meetings would require no additional resources. Should it subsequently transpire that additional costs would be incurred if the meetings were held, then it would be for the Fifth Committee to decide what course of action to take, in the light of the calendar of conferences.

32. Mr. NGUYEN DUY CHIEN (Viet Nam) asked whether it was intended to place the item under consideration on the provisional agenda of the General Assembly's fifty-second session. If that was the case, a paragraph to that effect should be inserted in draft resolution A/C.6/51/L.7.

33. The annex to draft resolution A/C.6/51/L.8 contained the text of a "Model Law on Electronic Commerce of the United Nations Commission on International Trade Law". It was his delegation's understanding that, if the General Assembly adopted the draft resolution and the annex thereto, the title of the annexed text would then become "United Nations Model Law on Electronic Commerce". He would appreciate clarification on that point.

34. Ms. CUETO MILIÁN (Cuba) endorsed the comments made by the representative of Viet Nam with respect to the need for an additional paragraph in draft resolution A/C.6/51/L.7. It was her delegation's understanding that the secretariat of any Main Committee was competent to issue a statement of programme budget implications, but that it was for the Fifth Committee to take any other decision on additional resources, having regard to and in the light of the calendar of conferences.

35. Ms. WILMSHURST (United Kingdom) said that there was a requirement for the Secretariat automatically to place the UNCITRAL report on the provisional agenda of the General Assembly's next session, and that it was long-standing practice not to include a paragraph to that effect in the draft resolution. Regarding the second proposal by Viet Nam, even once it had been adopted by the General Assembly, the Model Law would continue to be an UNCITRAL document.

36. Mr. FOZEIN (Cameroon) asked why draft resolution A/C.6/51/L.7 made no mention of the World Trade Organization (WTO) among the bodies referred to in paragraph 9. It was important that UNCITRAL and WTO should work in coordination.

37. Miss WILLSON (United States of America) said that, as a sponsor, her delegation doubted the wisdom of changing the title of the Model Law annexed to draft resolution A/C.6/51/L.8, as proposed by Viet Nam. The Model Law was being commended to other States, but had in fact been adopted by UNCITRAL.

38. Mr. MAZILU (Romania) said that the first amendment proposed by Viet Nam was unnecessary because the item was placed on the General Assembly's agenda as a matter of long-standing tradition. With regard to its comment concerning draft resolution A/C.6/51/L.8, he shared the reservations expressed by the representative of the United States.

39. Mr. LEE (Secretary of the Committee) said that items concerning bodies such as the International Law Commission and UNCITRAL were automatically placed on the General Assembly's agenda.

40. Ms. PROIDL (Austria), referring to the title of the Model Law on Electronic Commerce annexed to draft resolution A/C.6/51/L.8, said that, in view of the drafting of past resolutions on the topic, it would be better not to amend the draft along the lines proposed by Viet Nam. On the question raised by Cameroon with respect to draft resolution A/C.6/51/L.7, she said that the omission of a reference to WTO was the result of the desire to produce a streamlined text. The concern raised by the representative of Cameroon was, however, addressed in the sixth preambular paragraph of the draft resolution.

41. Mr. RAO (India) said that it had been the practice over the past 29 years to treat the work achieved by UNCITRAL as the work of that body, even though that work was submitted to the Sixth Committee and eventually adopted by the General Assembly. The UNCITRAL Arbitration Rules were just one example of that procedure. The draft resolution thus required no amendment.

42. Mr. NGUYEN DUY CHIEN (Viet Nam) said his delegation would not insist on the title of the Model Law being amended. On the question of the placing of the report of UNCITRAL on the provisional agenda of the next session of the General Assembly, long-standing practice, however commendable, sometimes needed to be reviewed. While his delegation could accept draft resolution A/C.6/51/L.7 as submitted, it would have preferred to have seen an additional paragraph on the question of continuity inserted therein.

43. Mr. VARSO (Slovakia) said that, as a sponsor of draft resolution A/C.6/51/L.7, his delegation supported the text introduced by Austria, with the minor changes suggested. UNCITRAL was an independent body of the United Nations and had the power to adopt model laws; it had, in fact, published a compendium of such model laws. Moreover, it was unnecessary to include a provision in the draft resolution requesting the General Assembly to consider the report of UNCITRAL, as the Commission itself made such a request in that report. Draft resolution A/C.6/51/L.7 could therefore be adopted as drafted.

44. Mr. LAVALLE VALDÉS (Guatemala) said that the title of the annex to draft resolution A/C.6/51/L.8 should be the same as the title of the draft resolution.

45. Mr. PEDRAZA (Bolivia) said that his delegation wished to join the sponsors of draft resolution A/C.6/51/L.7.

46. The CHAIRMAN said he took it that the Committee wished to adopt draft resolution A/C.6/51/L.7, as orally amended by the representative of Austria, without a vote.

47. Mr. HILDNER (Germany) asked whether adopting the draft resolution would mean that it would not have a final paragraph requesting the General Assembly to include the item on UNCITRAL in the agenda of its next session.

48. Ms. PROIDL (Austria) said that, in line with the Committee's past practice, the text could be adopted as drafted.

49. Draft resolutions A/C.6/51/L.7 and A/C.6/51/L.8 were adopted.

AGENDA ITEM 143: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued)

Draft resolution A/C.6/51/L.12

50. Ms. LEHTO (Finland), introducing draft resolution A/C.6/51/L.12 on behalf of its sponsors, said that it was based on similar draft resolutions adopted by the Committee in previous years. While references to current events were sometimes included in draft resolutions on the item, the traditional draft was being recommended for adoption at the current session. After pointing out the salient features of the draft resolution, she said that the sponsors hoped that it could be adopted without a vote.

51. Mr. SÁNCHEZ (Spain) and Mr. ANGELESKI (the former Yugoslav Republic of Macedonia) said that their delegations wished to join the sponsors of the draft resolution.

52. Mr. LAVALLE VALDÉS (Guatemala) said that in the second preambular paragraph, in the Spanish version, the first verb used should not be "establecer" but rather "desarrollar", in order to make it consistent with the English and French versions.

53. Draft resolution A/C.6/51/L.12 was adopted.

54. Ms. FLORES (Mexico), explaining her delegation's position on the draft resolution just adopted, said she was convinced that the implementation of measures to enhance the protection, security and safety of diplomatic and consular missions and representatives was essential for the development of relations between States. Diplomatic and consular privileges and immunities were granted in order to ensure the effective discharge of diplomatic and consular functions and must not be used for other purposes. Mexico interpreted paragraph 7 of the draft resolution to mean that the sending State had an obligation and a responsibility to prevent and punish all abuses by its diplomatic and consular representatives abroad in conformity with its domestic legislation and the principles and rules of international law.

AGENDA ITEM 142: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued)

Draft resolution A/C.6/51/L.9/Rev.1

55. Mr. SALAND (Sweden), introducing draft resolution A/C.6/51/L.9/Rev.1 on behalf of its sponsors, said that it represented the outcome of consultations between his delegation and other members of the Committee following the introduction of draft resolution A/C.6/51/L.9. The following changes had been made to the text: the fifth preambular paragraph stressed the need for consolidating the existing bodies of international humanitarian law and the need for wide dissemination and full implementation of such law at the international level; the wording of paragraph 4 had been brought into line with that of the fifth preambular paragraph; and, in paragraph 5, the reference to "preventive measures" in the earlier text had been deleted. The following countries had

joined the list of sponsors: Argentina, Australia, Belarus, Bulgaria, Cameroon, Germany, Liechtenstein, Portugal and the Republic of Korea. The sponsors hoped that the draft resolution could be adopted without a vote.

56. Mr. ANGELESKI (the former Yugoslav Republic of Macedonia), Mr. POLITI (Italy) and Mr. KULYK (Ukraine) said that they wished to become sponsors of the draft resolution.

57. Mr. NGUYEN DUY CHIEN (Viet Nam) requested clarification from the sponsors regarding paragraph 3 of the draft resolution, which called upon all States that were already parties to Protocol I to make the declaration provided for under article 90 of that Protocol. He wished to know whether that meant that States must make the declaration upon acceding to Protocol I.

58. Mr. SALAND (Sweden) said that the declaration in question meant that a State accepted the competence of the International Fact-Finding Commission pursuant to article 90 of Protocol I. States could become parties to Protocol I without making the declaration, while States which were already parties to Protocol I and had not yet made the declaration could do so at a later time.

59. Draft resolution A/C.6/51/L.9/Rev.1 was adopted.

ORGANIZATION OF WORK

60. The CHAIRMAN said that he had received a letter from the Chairman of the Fifth Committee expressing concern at the growing trend for the various substantive committees to become involved in financial and administrative questions. Delegations were reminded that, under rule 153 of the rules of procedure of the General Assembly, when a committee adopted a resolution with financial implications, it was assumed to be subject to the corresponding statement of programme budget implications, which was the exclusive responsibility of the Fifth Committee.

The meeting rose at 12.25 p.m.